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Docket No.: KCC-14,485

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Appellants: Lavada Campbell BOGGS, et al.

Serial No.: 09/855,180

Filing Date: 14 May 2001

Title: GARMENT HAVING GASKET WITH  
INTEGRATED ZONE OF ELASTIC  
TENSION AND/OR STRETCH

Confirmation No. 8191

Customer No. 35844

Group No.: 3761

Examiner: K. Reichle

**APPELLANTS' REPLY BRIEF UNDER 37 CFR 41.41**

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United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

Appellants herewith file their Reply Brief in the above-identified case, in response to the Examiner's Answer mailed 29 September 2005. Appellants respectfully submit that the Examiner's assertions are incorrect as a matter of law and fact. Thus, for the reasons set forth below, Appellants respectfully request that this Board reverse the rejections of Claims 1-6, 12, 15-19, and 25-27 under 35 U.S.C. §102(b) and 35 U.S.C. §103(a).

I hereby certify that this correspondence (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Appeal Brief - Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450 on

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In the Examiner's Answer, the Examiner reiterated the rejections under 35 U.S.C. §102(b) and under 35 U.S.C. §103(a) presented in the final Office Action mailed 10 June 2004, and then presented a response to Appellants' arguments presented in the Appeal Brief. Appellants reply to the Examiner's response as follows:

1. **PCT '264 FAILS TO DISCLOSE A BARRIER LAYER HAVING FIRST AND SECOND SURFACES OPPOSITE ONE ANOTHER WITH AT LEAST ONE ELASTOMERIC FILAMENT JOINED TO THE FIRST SURFACE AND AT LEAST ANOTHER ELASTOMERIC FILAMENT JOINED TO THE SECOND SURFACE.**

Clearly, Appellants' independent claims recite a single "barrier layer" having a first surface and a second surface that is opposite the first surface, with at least one elastomeric filament joined to the first surface and at least one elastomeric filament joined to the second surface. This configuration is clearly illustrated in Fig. 7 of the subject patent application, which shows a barrier layer 140 with three strands 108 positioned on each of the opposing surfaces.

Appellants maintain that the Examiner's claim interpretations are broad beyond any reasonable stretch of the imagination. *PCT '264* discloses multiple filaments joined to a *single surface* of a substrate, or *between two substrates*. Contrary to the Examiner's assertions, the *PCT '264* reference does not teach a multiplicity of filaments joined to *opposite surfaces* of a *single substrate*.

In the Examiner's Answer, the Examiner elaborates on her interpretation of the phrases "joined to the first surface" and "joined to the second surface" and suggests that, **in addition to considering filaments that are joined to the first surface as simultaneously being "indirectly joined" to the second surface**, these phrases can also be applied to **opposing surfaces of separate substrates**. Both of these interpretations are outside the scope of Appellants' claim limitations.

Furthermore, the Examiner refers to the claim terms defined in the specification and indicates that all other terminology will be given its common meaning. The definitions of the terms "opposite" and "layer" have been provided by the Examiner and were not taken from the specification of the subject patent application. Despite explicitly reciting these definitions, the Examiner has taken the liberty of broadening the interpretation of these terms as used in Appellants' claims to suggest that filaments joined to opposite sides of a barrier layer need not be physically located on opposite sides of the

layer because the term "join" includes both direct joining and indirect joining. The Examiner has taken further liberties in the interpretation of the term "layer" by suggesting that multiple layers are functionally equivalent to a single layer. However, *PCT '264* describes and illustrates two separate layers of flexible material with multiple elastomeric filaments between the two layers, which is in no way equivalent to Appellants' claimed structure in which a barrier layer is positioned between at least two elastomeric filaments.

In summary, the *PCT '264* reference does not disclose or suggest the limitations of Appellants' claimed invention. For at least the reasons presented in the Appeal Brief and as restated above, Appellants respectfully request the Board to overturn this rejection.

**2. APPELLANTS MAINTAIN THEIR POSITION IN ARGUMENTS I AND II IN THE APPEAL BRIEF.**

The Examiner has indicated that she maintains the grounds of rejection presented on appeal. Likewise, Appellants maintain their position in arguments I and II in the Appeal Brief. With respect to the rejection of Claims 6 and 27 under 35 U.S.C. 103(a) as being unpatentable over *PCT '264* in view of *EP '550*, Appellants maintain that *EP '550* fails to overcome the deficiencies of *PCT '264* discussed above.

**CONCLUSION**

For the reasons presented above, Appellants respectfully submit that the Examiner's Answer does not overcome Appellants' Appeal Brief. Therefore, Appellants respectfully request that the Board reverse the rejections proposed by the Patent Office.

Respectfully submitted,



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